[Constitution]

ARTICLE 32

641 Defense of the country is the highest duty and greatest privilege of any citizen.

[687] Treachery against the people is the greatest crime. Military service is obligatory for all citizens.

ARTICLE 33

651 Every citizen must pay taxes according to his income. The state fixes taxes, and exemption from the same is determined by law.

ARTICLE 34

687 Citizens cannot use the rights given them by this constitution in order to change the constitutional regime of the People's Republic of Albania in an undemocratic manner. Any act of this kind is illegal and carries with it punishment as prescribed by law.

ARTICLE 35

563 In the People's Republic of Albania national minorities enjoy all the rights enjoyed by other citizens as well as freedom to use their own language and develop their own culture.

ARTICLE 36

641 The People's Republic of Albania gives the right of refuge to citizens of other countries who are persecuted for their activities in behalf of democracy, national liberation, rights of the workers, or scientific and cultural freedom.

PART TWO
STATE ORGANIZATIONS

TITLE I
Highest Organs of the State

646 (a) People's Convention

ARTICLE 37

The People's Convention (Parliament) is the highest organ of the state of the People's Republic of Albania.

ARTICLE 38

The People's Convention maintains the sovereignty of the

[Constitution]

645 tions; submits bills prepared by the government and by various ministries to the People's Convention; decides on how ministries and other government institutions shall be organized; and creates committees to execute economic, cultural, and defensive measures on a national scale.

ARTICLE 60

The government is composed of the Prime Minister, the Deputy Prime Minister, the Ministers, the Chairman of the Committee for Economic Planning, and the Chairman of the Commitee of Control.

The members of the government take the oath of office before the Presidium of the People's Convention.

ARTICLE 61

The Prime Minister represents the government, presides over all meetings, and directs all the activities of the government.

ARTICLE 62

The members of the government head the various administrative departments of the State.

The Cabinet may have also Ministers without portfolio.

ARTICLE 63

•[687] Members of the government are held criminally responsible for the violation of the constitution or any other law in the performance of their duties.

They are also responsible for any damage they may cause the state for acting contrary to law.

The exact responsibilities of members of the government will be stated in a special law.

ARTICLE 64

Ministers and government committees are authorized to issue orders, regulations, and instructions relating to laws and decrees of the government.

Each minister supervises the execution of the governmental laws, decrees, and instructions in his own department and is held responsible for their execution in his particular administrative branch.

10:Hasluck F-5 (1926-1939)1954 EGl Albania EGl

If the commoners did not like one of his½
692 even if made in concert with the headmen and elders, they were
[622] not bound to abide by it and could compel him to re-examine the case. Neither he nor a headman could, singly or in combination, fine a tribesman without first securing authority from the tribe. After all, he and the headman might have a personal grudge against the man and might fine him for no other reason. To take an example
[619] from the non-tribal valley of Bulqizë, Miftar Meta the bajraktar and Lam Isaku his assistant were much respected and admired but they had no power, on their sole responsibility, to fine a man from Fushaj, their own village. Still less had they power to fine a man from another village in Bulqizë. They could not act in either case
[623] until they had secured the backing of the culprit's village at a general meeting. Nothing less, it was felt, guaranteed the impartiality of the sentence.

693 If a bajraktar misconducted himself, all the headmen and
623 commoners of his tribe, or possibly the commoners alone, sat in judgement on him. They could not ostracize, expel or burn him out like an ordinary criminal; he was too inherently a tribal institution for that. But they could, and did fine him. In 1907,[1] the Kryezi tribe assembled in plenary session, one man from each house, and fined its bajraktar and headmen 100 rams and an ox for some judgements they could prove to have been unjustifiable and prejudiced. The commoners could also ask an erring bajraktar to give a rifle or other valuable as security for his good behaviour in the future.

693 The misconduct for which a bajraktar was fined was seldom more heinous than sending his sheep to pasture on another's ground or pronouncing a biased judgement. On the whole, each was so carefully selected and trained by his predecessor in office that he rarely committed the graver crimes. When one did, he was sure to be so 'strong', i.e. influential, that the tribesmen thought it more prudent to close their eyes to his iniquity. There was much grumbling at the venality of bajraktars, but neither the tribal law nor the Turkish government took cognizance of this offence. If
693 a bajraktar, serving as judge or arbitrator, took a bribe, the only
687 remedy lay in the individual tribesman's freedom to choose another law-giver next time. If a bajraktar accepted a 'present' for doing a favour, there was no remedy at all. His victim could only comfort himself by noting how God, or Allah, punished such greed. It was

½ [the bajraktars--Analyst] = [the local military, administrative and judicial head--Analyst]

[1] See Appendix, Document XII, p. 271.

10: Hasluck F-5 (1926-1939)1954 EG1 Albania EG1

popularly believed in Shkrel that the three sons of Vatë Marashi, the bajraktar, and the three daughters of the Voivode Preng Mirashi, had turned out badly because the deeds of Vatë and Preng had been evil.

In time of war a bajraktar from the north-west group received triple pay and triple rations. A bajraktar of Shalë received double pay and double rations, one portion as a person and the other as standard-bearer. He also received pay and rations for three servants, two of whom followed him to the war both to guard and to serve him, while the third, a specially trusted man, remained behind in his house in Shalë as guardian of his property, women-folk and children. The allowances for these servants were only what ordinary soldiers received, food and *katik* (pocket-money: in Turkish, any relish eaten with bread) at the rate of one grosh per day, which was barely sufficient for their tobacco.

As an administrator a bajraktar was unpaid in so far as he had no fixed salary. He earned something, however, by his judgements, for which he was paid at the same rate as an elder. In the Malësi e Madhe, as often as he appointed elders, he too received a fee, although they did all the work and he did not stir from home. If they could not agree on a verdict, the litigants appealed to him. He then received a double fee, one the same as the elders' and the other in respect of his own journey to the scene of the quarrel. In other tribes or groups of tribes he did not get off so lightly; he had always to judge the case himself before he received any payment. The fees varied with the importance of the case and the rapacity of the bajraktar. In the tribal, but not in the non-tribal, areas any fines imposed were divided between the bajraktar and the headmen or 'good families' of his tribe. In the Malësi e Madhe a bajraktar who was summoned to Shkodër received ten grosh (50 koronë) per day from the Turkish government for his expenses. But everywhere a bajraktar's best source of income was bribes.

The bajraktar was both the military and administrative head of his tribe. His military and administrative precedence came 'from the staff in his hand', the flag stick of Turkish donation, but descent was the test for social precedence, and priority of descent was not always his. In many tribes there were 'good families' who descended from an older brother or a social superior of his ancestor, and on that account had, generation after generation, taken social precedence of his family.

10: Hasluck F-5 (1926-1939)1954 EGl Albania EGl

Disobedience to accepted authority was not permitted to an individual tribesman, a villager or even a tribe if that formed part, like the Mirditë tribes, of a group of tribes. Several of the Documents end by indicating the penalties that await tribesmen who defy the authority of the General Assembly that had laid down the preceding laws for the public good.

Examples of penalties prescribed are a fine of 3000 grosh, a choice between being burnt out or paying an ox to the tribe and 300 grosh and a ram to the government's representative, and a sentence of having one's house burned down and oneself expelled. Number XIII, the Fascist document from Mat, simply declares that any delinquent will be called a traitor. In each case the whole tribe was to meet again in General Assembly and go in a body to carry out the sentence. According to Document XI the breaker of a pledge guaranteed by the General Assembly of the Elders and Commoners of Kurbin was warned that the said Elders and Commoners would be obliged to burn his house and expel him.'

Elders were seldom tried before a General Assembly. They were kept in check by the fact that if their judgements were found unfair they lost not only face but also fees, for they were seldom asked to judge again. If there were complaints against one he was first asked, like an erring bajraktar or voivode, for a pledge; if he refused to give it he was haled before the General Assembly.

If a disputant flouted an elder's just and carefully considered judgement, he found himself before a General Assembly. For an elder represented a lawful authority. 'If you don't like the decision, go to St Paul's church or the Defile of Orosh (*Grykë e Oroshit*)' was the formula in Mirditë in such cases, church and defile being the favourite meeting-places for the General Assemblies of all its five tribes. If the Assembly upheld the elder's judgement, the penalty usually imposed was banishment for three years for the culprit and his family, the burning down of his house, the destruction of his crops and trees, and leaving his land untilled until he returned.

Sometimes a village was a public nuisance, harrying travellers, stealing its neighbours' beasts, cutting off their irrigation or mill water, trespassing on their forest or grazing, and so on. The bajraktar, voivodes, elders, and all the commoners in the rest of the tribe then gathered in General Assembly, one man from each house, and brought the village to its senses, fining the more harmless

10: Hasluck F-5 (1926-1939)1954 EGl Albania EGl

such phrases as 'May Sheikh Ibrahim cut short my life' and 'May 783
the bread kill me'. Sometimes the mechanism was crude and obvious, as in Jove's thunderbolts, the lightning that struck the perjurer dead, set his house on fire, or killed his livestock. Even if a perjurer escaped death, it was expected all over the country that he would fall ill or go from bad to worse till he came to ruin. Poverty and sickness must be his lot. His family might even die out, most dreadful of calamities. His son might be born with a physical defect, lame or blind or with a withered arm or too many fingers to his hands. A man of Tërnovë, near Martanesh, took a false oath, and as a result one of his eyes a year later was as large as his fist.

There were also social penalties to be faced. A man detected in 687 •
a false oath became an outcast, despised and condemned by all his [672]
fellows, and was never again invited into any house in the tribe. In [558]
grosser cases in the Malësi e Madhe he might even be expelled by the tribe. In Mirditë his family was branded with shame for seven generations. All over the Catholic areas he was also fined. In Mirditë there were elaborate rules for these fines. If there had been a jury of twenty-four, the perjurer had to pay 100 rams and an ox to the Gjomarkaj family. If the jury had been smaller, the fine, which was presumably of the same amount, went to the tribe. In addition, the perjurer had to pay a fine to the Church and 500 grosh to each compurgator for leading him into perjury and outrage to the Church, and so exposing him to the usual punishments for perjury and sacrilege. For the Divine wrath fell on an unwitting no [783]
less than on a witting perjurer. It was no excuse for a compurgator in God's eyes that he had forsworn himself in reliance on the suspect's oath; he had had the responsibility of ascertaining the facts for himself. The compurgators and the perjurer had to go to church in order to obtain absolution for their sins. Just before leaving, the perjurer had to leave money on the altar to pay all the fines he had contracted to pay when he took the oath before the compurgators. In the Malësi e Madhe he had to give six purses to the Church as well as one to each compurgator. In Martanesh which is, of course, completely Moslem, the same compensation was payable to each compurgator in a perjury case, but in neighbouring Zerqan the practice was unknown. The fine was obviously a considerable deterrent to would-be perjurers, especially when the jury was large.

10:Hasluck F-5 (1926-1939)1954 EGl Albania EGl

687 As Father Gjeçov remarks, perjury harmed the soul, imposed a fine and disgraced the man in the eyes of his fellows. All three consequences worked powerfully in their different ways to keep oath-takers on the path of truth. A thief, for instance, might get [783] as far as the door of a church or mosque, but there his heart would fail him and he would exclaim, 'Forgive me, I did steal it'. Then he would proceed to make the usual reparation. Even innocent men dreaded the oath and took it with great reluctance. In poverty-stricken Theth many were so afraid of it that even when wrongfully accused, they preferred to pay whatever fine was due for the crime. 782 In Lurë people professed to fear nothing so much. 'You may rob [627] me of my life, but I will not break my oath', they used to say. As [423] for oaths taken to settle disputes, generations afterwards the descendants of the original disputants were afraid to break the oath of their ancestors. This fear kept boundaries that had been trodden out by an elder under an oath immovable for all time, and preserved water rights. In modern Lurë there is some maldistribution of irrigation water, but no attempt is made to remedy this by force of law. Many years ago, the people say, their ancestors took an oath about the irrigation rights of each family and they dare not violate this oath. One of the derisory stories told in sophisticated Tirana about the Highlanders relates that they were such poor stuff that one said, when brought to court, 'I have sworn a solemn oath not to tell, but press me a little and I will speak'.

There were occasions, however, on which perjury was thought permissible or even commendable. A man of Lumë, when asked to be compurgator in a murder case, would sometimes consider whether he might help to make peace between the parties if he forswore himself. If he decided that 'giving a living man for a dead one was no way of doing', he would swear a false oath. In the Malësi e Madhe, a village ward or a tribe had sometimes to swear not to enter a malefactor's house; when this punishment came to seem excessive it was thought advisable to break the oath.

695 In general, the modern mountaineers drew a distinction between 687 their own old jury system and the law court that was superseding it. Reluctant though they remained to forswear themselves by their old system, they would do so joyfully in the modern court, especially if this saved a friend or relative or concealed their possession of a rifle; this weapon being their chief treasure, they would deny '500 times' on oath that they had it. Instead of public censure

10: Hasluck F-5 (1926-1939)1954 EGl Albania EGl

they met with public commendation in such cases. The modernity of the court-house was against the oath; there had been no time for the growth of stories about punishment for perjury in it. For the same reason the new church in Nikaj was not thought so good a place for taking an oath as was the old one.

It happened inevitably that some men were sceptical or sacrilegious enough to take a false oath and plausible enough to persuade the requisite number of compurgators to swear to their innocence. A thief could send a stolen cow to graze with his own, yoke the stolen ox into the plough with one of his own and hang a bell on the neck of the stolen sheep or goat. The real owner might recognize the animal, but he could not claim it. The public too might recognize it, but they had to shut their eyes. The law said, 'what is won by an oath belongs to him who wins it'. The law disliked this principle but had to accept it because there was no way of bringing home a crime to a man who had been cleared by an oath. This legal defect made it essential that honourable and knowledgeable compurgators should be chosen. The same defect made every tribal authority, in the interests of justice, foster the general fear of perjury to the utmost.

In spite of the fear of punishment for perjury, some jesting stories, which are possibly apocryphal, were told of perjurers. Once there was a headman in the village of Peladhi, near Zerqan, who wrapped up a block of wood in a cloth as if it were a Koran and summoned the village to swear on it that they would no longer go and cut wood illicitly in each other's forest. They took the oath and, believing they had done so on the Koran, kept it. He too took the oath, but knowing it to be void because taken only on a profane bit of wood went afterwards to his neighbour's forest and cut all the wood he wanted.

10: Hasluck F-5 (1926-1939)1954 EGl Albania EGl

such a service. In this type of crime there was, of course, no trial in view; the husband's rifle was the only possible arbiter. [695] [684]

The examination which an eye-witness had to pass was very stiff. As a first step, he had to take oath before the elders that he would tell the truth without prejudice or spite; the man he accused was not to be troubled till his accusation was proved to be just. The only extant example of his oath, which comes from Çermenikë, runs, 'Look upon this earth, these mountains, these plains, this sky. You must carry them (through all eternity) if you lie', said the elders. 'Let me carry them. It is as I say,' the witness replied. Sometimes an elder recognized the witness and, knowing him to be of good character, did not ask him to risk his future by taking an oath. Even if he did not recognize him but only liked his manner and general appearance, he might excuse him.

When everything was set for cross-examination, the elders questioned the witness closely, noting any discrepancies in his statements, and looking out for any sign that the accusation was false. If it was a case of perjury, they had to be specially patient [687] and careful as the penalties involved were so much heavier. The witness was not a professional like our detectives. Often he was a man so trusted by the thief that he had constant access to his house and so was in a position to see the stolen goods as soon as produced.

The witness had to give a detailed description of the crime and stolen property to the elders. In most cases of theft he must have either seen the thief in the act of stealing or leaving the scene of the theft or observed the stolen goods in the house or hand of the thief. When an ox had been stolen, he had to say where he saw the animal, where the thief had killed it, sold its hide and so on. When several oxen had been stolen he had to report according to their colouring that one was black, another white and a third dappled, that the thief took first this road, then that, killed one ox at such and such a spot and sold another to so-and-so. Whatever he said was subject to confirmation. When he alleged a sale, the elders sent independent agents to inquire whether it had really taken place. When he said the ox had been eaten, he had to produce concrete evidence, a token such as a bit of the skin, a horn, or some other part. This was the most conclusive of all possible evidence.

If the witness stood up well to the cross-examination, the elders declared that the suspect was guilty and must make the statutory

10:Hasluck F-5 (1926-1939)1954 EGl Albania EGl

695 atonement. If the witness had come forward after the suspect had
[687] taken an oath and been acquitted, the elders declared the suspect's oath invalid, pronounced him guilty, and sentenced him, not only to the usual penalties for his crime, but also to punishment for perjury.

[685] Apart from what his perjury, if any, cost him, the convicted thief had to pay the value of the stolen property, the witness's fee and the elders' fee. He had to hand the witness's fee to the owner of the stolen goods, who had to pass it on to the witness, whose anonymity was thus preserved. In order to extract the witness's fee the elders commonly valued the stolen property at a good deal more than its real price; when the thief paid up, the owner retained the real price and handed the surplus to the witness. In Mirditë, says Father Gjeçov, the accuser who failed to warn the suspect at the outset that he had a witness, could not, even if the suspect was convicted, recover more than half the witness's fee. There does not seem to have been a similar law elsewhere.

If a thief continued to deny the theft and refused to pay his various fines after being declared guilty on a witness's evidence, the elders said he must take an oath that he was innocent, and then the compurgators stepped in, forbidding him to perjure himself and so confirming his conviction. This was in Mirditë and Lumë. In Martanesh, the law apparently went further. If a man convicted by a witness of having stolen from a house—the worst type of theft—denied the theft, was ordered to prove his innocence by an oath, and succeeded in doing so, and if the accuser still persisted in his accusation, the latter was asked to produce his witness before a new committee of elders. If a searching cross-examination convinced these that he was telling the truth, they ordered the thief to swear with forty-eight compurgators that he was innocent. This was double the number usual even in murder cases, and far more than he could ever hope to find.

695 The cross-examining elders sometimes concluded that the
687 witness was lying. In Dukagjin, when quite certain of this, they made him instead of the thief pay for the stolen property. In the Malësi e Madhe, attended by their followers, they went and burned down his house, killed him if they caught him, and confiscated his property, making it common land on which all were free to graze, although none could plant grapes or sow maize. If some time elapsed before they discovered he had lied and if in the meantime

10: Hasluck F-5 (1926-1939)1954 EGl Albania EGl

they had punished the man he denounced, they repaid any moneys taken from this man out of the false witness's property, selling a portion of it if necessary.

In some southern areas manners were softer. In Çermenikë and Zerqan a lying witness was dismissed with a contemptuous word, suffering only disgrace in the accuser's eyes. Since his identity had never transpired, the public thought neither more nor less of him than before.

Sometimes the witness convicted himself of being the thief. This happened especially when he knew too many details, describing too exactly, for instance, the colour of a stolen animal's hair, the number of its spots, or the shape and twirls of its horns. The elders then called him the thief outright and sentenced him to pay their fee as well as the value of the stolen property and the amount he had extracted from the accuser as his own fee. 'So you wanted to steal twice over from him, did you?' they would exclaim. In Martanesh they also disgraced him publicly. The elder in whose yard he was being secretly examined called out to the accuser to come and seize him like the thief he was; during his cross-examination the accuser had remained, as was everywhere customary, out of earshot. As the yard was bolted for the night, the thief could not escape. Next day he was led out in front of the assembled village, denounced by the elders, and publicly sentenced to pay the sums described above. It often happened that they saw him then for the first time.

In Mirditë, it sometimes happened that a witness, observing that he had failed to convince the elders, and certain of his evidence, came forward publicly, seized the thief (or murderer) by the arm and denounced him as the criminal. Such courage never failed to win credence for his story.

If the witness was dismissed as a liar or convicted as the thief, the accuser lost the money he had paid him as well as the value of his lost property. That explains why a suspect could not be put to the oath a second time, yet could be retried as it were on a witness's evidence. It cost the accuser nothing to make a suspect take an oath, so that if the law had allowed 'oath after oath', a litigiously minded man might have made himself an endless nuisance to suspect, elders, compurgators and general public. But there was no such risk with a witness. The accuser had to prepay him whatever fee they agreed on, and if he had been foolish enough to trust an unsatisfactory person, he lost his money.

6: Shuster S-4 (no date) 1954 El Europe
Albania EG1

795 661 banian writers, the Reverend Lazarus Shanjoha, to death. He had favored close ties of friendship with Italy for many years, and so the sentence was ascribed to the National Liberation Front's fanatical detestation of all things Italian, and not to antireligious prejudice.

659 668 687 Ilya Ehrenburg, major Soviet propagandist, visited Albania during the November of 1945. Upon his return to Moscow he described Scutari, more than half the population of which was Roman Catholic, as a vicious hotbed of reaction. At the time of his visit the city was preparing for its first postwar elections. A handful of students at the diocesan seminary for the training of priests circulated mimeographed sheets urging that the recipients vote against the National Front. These sheets bore the signature of the "Albanian Union." Spurred on by Ehrenburg's denunciation, the government jailed and tortured some of the distributors. They revealed the names of the seminarians, who as a matter of fact constituted the complete membership of the Albanian Union. A spectacular trial of those held guilty of having plotted to overthrow the State with the help of "Anglo-American imperialists" became in reality a forum before which the Catholic Church was indicted for high treason. The Rector of the seminary and one of his fellow Jesuits were accused of responsibility for the conspiracy, found guilty, and executed. Others received heavy prison sentences. Nowhere else had a court acted more grimly.

659 798 661 The liquidation of virtually all Catholic activities followed swiftly, with more cruel and vengeful treatment of the clergy than has been witnessed even in Hungary and Yugoslavia. The Papal Nuncio was expelled, as were all priests and religious born in Italy. Education was reserved to the State, even nursery schools being taken from the Church. Catholic Action was suppressed. The seminaries were closed. Ecclesias-